

REMARKS

Applicant thanks the Examiner for withdrawing the rejections listed in paragraphs 1-4 in the Action.

Applicant has canceled claims 25-40 for the purpose of narrowing the issues for appeal. Applicant does not acquiesce in the Examiner's rejection, but simply believes that focusing on the main rejections of claims 1-4 and 6-24 will promote the prosecution of this application. With this in mind, the rejections repeated in paragraphs 5-8, since these claims have been mooted.

In paragraphs 9, 10 and 11, the Examiner has rejected claims 1-4, 6-24, 39 and 40 under 35 U.S.C. 112, first paragraph, arguing that a certain limitation in the claim has no support. Since Applicant has complied with the statute in amending the claim with subject matter clearly communicated by the specification and claims, taken as a whole, Applicant respectfully traverses the rejection.

The Examiner states (see page 3, paragraph 11) that claims 1 and 39 have the added limitation:

...wherein a fabric is embedded into the first rigid thermoplastic composite area and the second rigid thermoplastic composite area and hinged region, and wherein said first rigid area and said second rigid areas are joined through the at least one flexible hinged region.

...wherein further at least one portion of said at least one flexible hinged region is coated with a flexible sealant.

The Examiner further states (see page 4, first paragraph):

The examiner has interpreted the new language of claim 1 to mean that the at least one flexible hinged region comprises a fabric embedded in another material and then coated with a flexible sealant. The specification does only give [sic] support for the at least one flexible hinge to comprise a fabric layer coated on either side with a flexible sealant (see figure 1 and 4 and specification page 5, lines 6-18). Therefore the new limitation is considered new matter.

These portions are simply not understood. The Examiner's understanding of "material" is not meaningful. Further, the Examiner seems to be arguing that the standard applied here, under 35 U.S.C. § 112, is whether the "exact" language is in the case. This is not the appropriate standard

for judging support for an amendment. The appropriate standard is whether the amendment is communicated to one of ordinary skill in the art based on a review by that skilled person of the application taken as a whole including specification, claims and drawings. The Examiner cannot seriously argue that, as the Applicant understands the argument, there is no support for the hinge having a coating of sealant on either side or both sides. All of this is supported by the specification and drawings.

The Examiner goes on to say, in the second full paragraph on page 4, as follows:

...a fabric that is embedded into a first and second rigid thermoplastic composite area, and wherein the fabric joins the first and second areas through the at least one flexible hinged region,

is supported by the disclosure.

Applicant does not believe that there is an important difference, as it relates to 35 U.S.C. § 112, between rejected subject matter and the subject matter acceptable to the Examiner. While they are different in wording, they are all supported by the specification, taken as a whole, as understood by one of ordinary skill in this art.

The Examiner explores Applicant's arguments in paragraphs 12-14. At the outset, Applicant does not understand the Examiner's comment that Applicant's claim does not relate to the claimed invention. The claims clearly recite two PVC fabric composite areas joined by a hinge having a common fabric support. These composite areas and hinge all share a fabric portion as a part of the structure. The Examiner's comments to the contrary notwithstanding, Applicant cannot understand any other conclusion that the fabric is embedded in the first composite, the hinge and the second composite. The Examiner's comments do not appear to relate to the claims as written.

As it relates to the art cited by the Examiner, Teeter, Vliet and Joyce, all relate to hinge structures quite different than that claimed. Teeter is a multilayer structure in which the hinge is attached to a lid using mechanical fasteners, Vliet is a hinge that is press fit into structures, while Joyce is a molded snap hinge used in a thermoplastic lid. None of these are hinges derived from a fabric associated with a thermoplastic composite used with a sealant. The Examiner is clearly picking these references by hindsight and applying only small portions of the references against the claim without regard to the requirement that the references must be selected without hindsight and these references must contain a reason to be combined with the main reference.

These secondary references all fail to teach the claim invention or relate to any technology related to the invention. Hutchinson et al. is the only reference that even relate to the invention; however, this invention contains no fabric in the hinge portion. Applicant points this out even through the art rejections based on 35 U.S.C. § 103 have been mooted, since claims 25-40 have been canceled. However, as Applicant has shown above, does not acquiesce in the Examiner's obviousness rejection since it is so poorly taken.

CONCLUSION

Applicant asserts that the rejection under 35 U.S.C. § 112 is based on an inappropriate standard and an incorrect reading of the claims.

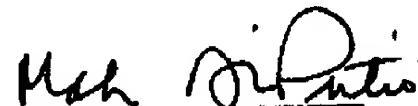
Applicant asserts that the claims are not rejectable under 35 U.S.C. § 103 over these references.

Applicant respectfully request the Examiner to pass claims 1-24, as amended to allowance.

Respectfully submitted,

22 Sept 03

Date



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